IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

WRIT PETITION NO : 14658 of 1995

Between:

1 Zubair Ahmad S/o. Late Basheer Ahmad
Vayyuru, Krishna District.
2 Abdul Aleem S/o. Nazeer Ahmad
Vuyyuru, Krishna District.

..... PETITIONERS

AND

1 The District Collector,
Krishna, Machilipatnam.
2 Revenue Divisional Officer,
Machilipatnam, Krishna District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, order or direction declaring the Notification under Section 4(1) of the Land Acquisition Act, is published by Government at pages 2 and 3 of the Krishna District Gazette, Dt. 17-5-1995 and also the proceedings in Rc.No.G.9.179/94, Dt. 29-9-1994 and the declaration under Section 6 in Rc.No.G.9.179/94 Dt. 21-1-1995 issued by the District Collector, Krishna, Machilipatnam and all the consequential proceedings as illegal, null and void and to direct the respondents from taking any further steps pursuant thereto for the acquisition of the Lands of the petitioners herein and to pass such other order or orders as are deemed fit and proper.

Counsel for the Petitioners:MR.C.C.S.SASTRY

Counsel for the Respondents: GP FOR LAND ACQUISITION

The Court made the following O R D E R:

Heard learned counsel for the parties.

A notification under Section 4(1) of the Land Acquisition Act, 1894 (for short "the Act") was issued on 29-09-1994, which was published in the newspapers on 10-10-1994 proposing to acquire a total extent of Ac.6.00 cents of land situated in Sy.Nos.550/1 and 550/2, Pedna village, Krishna District. A consequential notification under Section 6 of the Act was published on 21-01-1995. Enquiry was dispensed with under Section 17(1) of the Act. Thereafter, the land was not taken into possession. The first respondent again issued another notification under Section 4(1) of the Act on 17-05-1995 and the grievance of the petitioners was that paper publication was not made. Another notification was published on 29-06-1995 dispensing with 5-A enquiry and invoking urgency clause under Section 17(4) of the Act. The notification issued under Section 4(1) of the Act on 29-09-1994 and also the second notification issued on 17-05-1995 have been challenged in this writ petition.

The petitioners have been able to obtain stay from this Court when the writ petition was entertained in the year 1995. Counter has not been filed. Therefore, it is not known to this Court as to whether there was any urgency or not. It is also not known to this Court whether the purpose for which the acquisition had been notified still survives.

In these circumstances, I dispose of the writ petition with a direction to the respondents that if they still are of the view that the land needs to be acquired for a public purpose, they shall conduct an enquiry in terms of Section 5-A of the Act as obviously there was no urgency as they did not even file a counter-affidavit for ten years. No order as to costs.

_____

(Bilal Nazki, J)

3rd March, 2005.

vrn

To

1 The District Collector,
Krishna, Machilipatnam.
2 Revenue Divisional Officer,
Machilipatnam, Krishna District.

3 Two C.Cs to the G.P. for Land Acquisition, High Court Buildings,

A.P., Hyderabad.

4 Two C.D copies.